

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Richard Coleman

v.

Civil No. 16-cv-498-LM

State of New Hampshire, et al.

REPORT AND RECOMMENDATION

Pro se plaintiff Richard Coleman has pending claims against Natasha Cormier and FNU Dronsfield alleging malicious prosecution. Cormier was defaulted by the Clerk of Court for failure to appear. Doc. no. 34. Dronsfield has appeared and is defending the claims against him through counsel.

Coleman moves for an entry of default judgment against Cormier. Doc. no. 47. Dronsfield moves to stay the adjudication of that motion, arguing that the court should not enter judgment against Cormier until the claims against Dronsfield have been resolved. Doc. no. 51. Coleman has not objected to Dronsfield's motion to stay. Both motions have been referred to the undersigned.

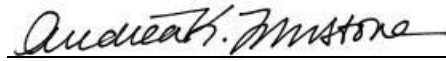
Though persuaded by Dronsfield's substantive arguments, the court concludes that it would be more appropriate to deny the motion for default judgment without prejudice rather than stay the adjudication of that motion. This case is still in its

early stages, with trial recently scheduled for the two-week period beginning November 14, 2018. See Nov. 21, 2017 Scheduling Order (doc. no. 53). Thus, even assuming no continuances, a stay could result in the motion for default pending for a year or more before it is resolved. Additionally, given the dispositive nature of the motion for default judgment, the court must issue a Report and Recommendation, which will allow Coleman a final opportunity to raise any arguments in favor of resolving the motion for default judgment now with the district judge via a timely objection. These considerations militate in favor of recommending that the motion for default judgment be denied without prejudice to Coleman refiling it once his claims against Dronsfield have been fully adjudicated.

The court accordingly recommends that Coleman's motion for default judgment (doc. no. 47) be denied without prejudice to refiling.¹ Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). The fourteen-day period may be extended upon motion. Failure to file specific written objections to the Report and Recommendation within the specified

¹ In light of this recommendation, the court denies Dronsfield's motion to stay (doc. no. 51) in a separate endorsed order.

time waives the right to appeal the district court's order. See Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016); Fed. R. Civ. P. 72(b)(2).

A handwritten signature in black ink, reading "Andrea K. Johnstone", is written over a horizontal line.

Andrea K. Johnstone
United States Magistrate Judge

December 15, 2017

cc: Richard Coleman, pro se
Matthew Vernon Burrows, Esq.
R. Matthew Cairns, Esq.